

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

DEUTSCHE BANK TRUST
COMPANY AMERICAS, *et al.*

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Plaintiffs

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v.

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Civil Action No. 8:11-CV-1510-AW

JANICE M. MCGURN, *et al.*

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Defendants

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**MARYLAND STATE RETIREMENT AND PENSION SYSTEM’S MOTION FOR
RELIEF FROM STAY AND FOR LEAVE TO FILE MOTION TO DISMISS**

The Maryland State Retirement and Pension System (“MSRPS”), a defendant, by its attorneys, hereby moves from relief from the Court’s August 17, 2011 Order granting plaintiffs’ Amended Motion to Stay and specifically requests leave to file a Motion to Dismiss plaintiffs’ Second Amended Complaint.

Plaintiffs cannot maintain a claim against MSRPS because their state law claims are barred by the Eleventh Amendment and the doctrine of state sovereign immunity. Plaintiffs therefore lack standing and this Court lacks subject matter jurisdiction over the claims. This Court retains the discretion to decide this Motion while the Multidistrict Litigation (“MDL”) application is pending and even if the MDL Panel enters a conditional transfer order. Given the sovereign immunity issues unique to MSRPS, substantial cause exists to grant this Motion, lift the Stay, and permit MSRPS to file its Motion to Dismiss.

The grounds for this Motion are more particularly set forth in the attached Memorandum, which is incorporated herein by reference.

WHEREFORE, for all of the reasons stated herein, MSRPS respectfully requests that the Court grant its Motion, and allow leave for MSRPS to file a Motion to Dismiss plaintiffs' Second Amended Complaint.

Respectfully submitted,

DOUGLAS F. GANSLER
Attorney General of Maryland

_____/s/_____
JOHN J. KUCHNO
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Retirement and Pension System

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16th day of December, 2011, a copy of the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system, which will then send a notification of such filing (NEF) to all counsel of record who have appeared in this case.

/s/

John J. Kuchno
Assistant Attorney General